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ABSTRACT

Major issues concerning the negotiation of a collective bargaining contract on February 1, 1981, at the National Autonomous Associations of Academic Personnel of the University (AAPAUNAM), the first legally authorized bargaining agent of the faculty. The contract was negotiated under terms of the recently enacted amendments to the federal constitution of Mexico. Legislation of 1929, 1933, and 1945 also is also reviewed because it defines the university as an autonomous public corporation, with full legal powers. The University Council was established by law as the supreme authority within the institution. Composed primarily of faculty and students elected by peers, and upper echelon administrators, the council was empowered to make final decisions on all important academic matters, select the rector (the equivalent of a university president in the United States), and determine the conditions of employment for faculty and academic personnel. The labor status of the university's academic personnel was clarified in the 1980 amendments to the federal constitution and the Federal Labor Law. Autonomy was substantially preserved and very little collegial authority was bargained away or delegated to the union. The University Council remains as the supreme academic authority. In negotiating this contract, which expires in 1982, many compromises were made not only between labor and management, but between the rival unions. The nature of these conflicting interests, which have political significance, is considered. (SW)

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COLLECTIVE BARGAINING AND THE CONCEPT OF
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On February 1, 1981, the National Autonomous University of Mexico (UNAM) signed a collective bargaining contract with the Autonomous Associations of Academic Personnel of the University (AAPAUNAM), the first legally authorized bargaining agent of the faculty. This contract was negotiated under terms of the recently enacted amendments to the federal constitution of Mexico. The purpose of this paper is to survey the major issues surrounding the negotiation of the collective bargaining contract as they relate to the concept of university autonomy.

Founded in 1910, UNAM is the largest and most prestigious university in Mexico. It accounts for approximately 50% of all students enrolled in higher education and 30% of the faculty nationwide. Currently, over 300,000 students attend UNAM, with steady enrollment increases projected during the next decade. Similar to U.S. patterns, this massive student influx began in the 1960's and has led to unprecedented transformations in the structure and organization of the University. In 1950, for example, 25,000 students were enrolled at UNAM; this number soared to 133,000 in 1971. By 1977, it had doubled to 271,000. Correspondingly, the number of faculty expanded to meet the soaring enrollments. In 1973, UNAM had 8,000 faculty members. By 1978, the number of faculty surpassed 19,000. This massive expansion has been accompanied by radical shifts in the composition of the faculty, with the introduction of a characteristically younger, ideological, and heterogeneous group of faculty into the University. Organizationally, UNAM has been transformed into a huge bureaucratic, multi-university. The impact of these changes on traditional academic governance has been considerable. One of the major consequences is the advent of faculty unionization.

The significant differences between the contemporary Mexican university and that of twenty years ago are manifold and striking. Internally, it is a more liberal and democratized institution characterized by persistent conflicts among professors, students, and non-academic employees as they seek to expand their rights and privileges within the university community. It is also a more politicized university wherein rightist, leftist, and other radical elements clash in ideological struggles over the mission of the University and its relationship to society.¹ The leftists, or self-proclaimed Marxists, made their first significant incursion into UNAM in the 1960's at a time when large numbers of young people began to view higher education as the indispensable path for social mobility. The left made equal access to higher education its chief campaign slogan. Its position triumphed, and the University was converted into a mass institution. The Mexican left enjoys almost no support among farmers and blue-collar workers; it draws its major support from students and faculty at the University. Thus, it has made the University its principal field of battle and faculty unionization its chief mechanism for gaining greater control over academic and institutional policy. At the other end of the political spectrum are the rightist groups, who tend to be associated with religious organizations and are militantly opposed to all leftist activities. Fervently anti-communist, they are rigidly orthodox with respect to academic traditions. They view faculty unionization and shared governance as Marxist-inspired transgressions against the academic and moral order.

Between both of these extremes stand the so-called "moderates" who constitute the majority of the faculty at UNAM. They tend to favor a

limited form of faculty unionization by preserving the authority of collegial decision-making bodies (i.e., the University Council) and opposing more militant faculty groups on campus. In general, they are pragmatic in their academic outlook and believe that the University should serve modern society by meeting its emergent technological and social needs. Through mobilization of otherwise separate and disorganized groups, the moderates succeeded in defeating the more radical faculty union during the recent election to choose a faculty bargaining agent at UNAM.

University Autonomy and Collective Bargaining

The reciprocal relationship between the public university and the State is a principal theme in the chronicles of higher education. In essence, the university proclaims the privilege of self-governance, protection against undue outside interference, and proper patrimony or financial support from the State in return for serving the major intellectual, cultural, and scientific needs of society. In Mexico, the autonomy of the National University is guaranteed by federal constitutional law. UNAM's autonomy pertains to both its external relations with the government and its internal procedures for shared governance and collegial decision-making. In this respect, UNAM occupies a unique position cross-nationally. In the United States, for example, institutional autonomy is more a philosophical ideal than an organizational reality. There are no federal statutes guaranteeing academic or institutional liberties; while a few states have provided for a single constitutionally autonomous university, case law seems to be the only determining factor in the resolution of conflicts

concerning university autonomy and academic freedom. By contrast, Mexico has granted legal autonomy to its National University since 1929.

The Organic Law of UNAM, July 26, 1929. UNAM was defined by the Organic Law of 1929 as an autonomous public corporation, with full legal powers.² Its autonomy was to have no further limitations other than those expressly established under terms of this law. Furthermore, the mission of the University and its relationship to Mexican society were set forth. It was given the authority to fulfill the ends of higher education and to contribute to the progress of Mexico by maintaining and developing its culture through the study of those problems affecting the country. Equally significant, the law insured that the government would provide sufficient funds for the operation of the institution.

The other important provisions of the 1929 law pertain to the internal autonomy of the institution. Articles Six and Seven identified those internal elements to share in the governance of UNAM. First in importance was the University Council which the Law established as the supreme authority within the University. The University Council was to be composed primarily of faculty and students elected by their peers. Upper echelon administrators were also to serve on the Council. Among its most important functions, the Council was empowered to make final decisions on all important academic matters, most especially the planning and development of curriculum, teaching methods, and the awarding of degrees. Moreover, it was charged with selecting the Rector (the equivalent of a university president in the United States) of UNAM from a list of candidates proposed by the President of the Republic.

The 1933 Law of Absolute Autonomy and the 1945 Organic Law. The 1933 law basically extended provisions of the 1929 Law and established more specifically the applicability of autonomy to the State. Concerning internal governance, the 1933 law gave the University Council supreme authority for "organizing and defining the internal administration of the University."³ Furthermore, the Council obtained the reserved right for determining the conditions of employment for faculty and academic personnel with the University. This puts academic personnel decisions squarely in the hands of the University Council. Thus the faculty were not to be considered as public employees or civil servants, even though the University was itself a public corporation. Nor were they to be considered as employees of the private (industrial) sector in which case they might have been able to come under federal labor legislation for trade unions. It was not to be until 1980 that the labor status of the UNAM academic personnel would be clarified—and then only through an amendment to the federal Constitution.

Selection of the Rector and the 1945 Law. The Rector of UNAM is the chief executive of the University and, because of the prestige of the University, he has inevitably become one of the most important figures in Mexican political and social life. The selection of the Rector is of critical importance to the University community not only because of his power vis-à-vis the federal government but because of his internal authority to choose the directors of the institutes and deans of the individual schools within UNAM. From 1910-1929, the Rector was appointed by the President of the Mexican Republic. The laws of 1929 and 1933 authorized the University Council to choose the Rector from a list of three persons proposed by the President. But, as Levy points out, the Council acted

irresponsibly; the various factions within the Council could not agree on a suitable candidate to reduce the political instability and near anarchy surrounded this issue. A University Board (Junta de Gobierno) was established under the Organic Law of 1945.⁴ During this period, the average tenure of the Rector was not quite two years in office. The Board was given the authority to select the Rector without outside interference by the government. Members of the Board were to be elected by the University Council but the formal requirements were so vague that as originally stated the Junta members did not necessarily come from UNAM. The 1945 law simply required that they be universitarios. As a result, many members of the Board have come from positions within the federal government rather than directly from within UNAM.

The mechanisms for the appointment of the Rector have continued to be a controversial issue, with radical elements within UNAM demanding the dissolution of the Governance Board in favor of direct election of the chief executive and more moderate groups calling for the Board members to be part of the University community and responsive to its collective opinions about candidates for the position. This issue surfaced most recently during the bargaining agent elections and negotiations stages, but neither AAPAUNAM nor its rival, the Sindicato de Trabajadores de la UNAM (STUNAM) succeeded in changing the selection process of the Rector.

Recent Amendments to the Constitution and the Federal Labor Law.

The amendment to the Third Article of the Mexican Constitution was passed by the Mexican Congress and signed by President Lopez Portillo on October 10, 1980. The amendment contains the following significant provisions with respect to the implications of faculty collective bargaining for the external and internal dimensions of university autonomy.

1. The University and Society. One of the key issues involved during the prolonged debates in the Congress to amend the Third Article of the federal constitution was that of protecting the self-governance of UNAM against the potential interference of a nationwide faculty union federation while maintaining at the same time its independent status with the government. Section VIII of the amendment states:

The autonomous universities have the right and responsibility to govern themselves; to fulfill the purposes of teaching, research, and disseminating culture according to the terms of this article, respecting the freedom of teaching and research and the free examination and discussion of ideas; to determine their plans and objectives; to establish the terms of hiring, promotion, and tenure for faculty; and to administer its financial allocation from the government.⁵

The rationale (or the "Exposicion de Motivos" as it is termed in Mexican constitutional law) behind this statement pertains to the unique position of the public autonomous university in the Mexican culture. First of all, the university is not to be controlled by any outside element or faction. For this purpose, the State itself makes a permanent compromise in its authority to grant independence to the university so that it may function freely and administer its own affairs. The framers of the amendment are careful to point out, however, that institutional autonomy does not imply a territorial right that supersedes the primary rights of the state. Conscious of the attempts of one of the major faculty unions at UNAM to form a national labor federation for academic personnel and possibly dominate the public universities, the Congress sought to emphasize the distinctiveness of each autonomous university. The new law advocates a "system free from prejudice and fanaticism that is open to all the currents of universal thought and attentive to the conviction of the general will" ⁶

2. Internal Governance and Unionization. The amendment reinforces the University's preeminent right to make final decisions about such academic personnel matters as hiring, promotion, and tenure. Thus, it is not mandated to negotiate these matters with the faculty union. The University Council retains this authority, despite the attempts of the unions to make academic personnel decisions subject to negotiations and inclusion in the bargaining contract. To adopt the more technical vocabulary of American labor law, the key point here is that academic decisions are permissive but not mandatory subjects in the scope of bargaining.

Of equal importance, the amendment to the Third Article calls for a special provision to be added to the Federal Labor Law pertaining to the labor relations of UNAM faculty and staff.⁷ Academic personnel are defined neither as public employees (civil servants) nor as private workers (trade unionists), but as members of a "special occupation." Thus, special provisions are to be added to the Federal Labor Law to cover this unique occupational group in a manner somewhat similar to those developed for such other special occupations as airline employees and hotel workers.

The major provisions added to Part A of the Federal Labor Law have the following significance for university self-governance and democratic participation.

1. Chapter XVII, Title Six, Article 353 of the new law begins by stating that the labor relations of faculty and staff workers and the universities should have as their objective "the attainment of equilibrium and social justice in labor relations, in a manner consistent with autonomy, academic freedom, and goals proper to the university" (*italics added*).

Therefore, by implication, traditional self-governance practices such as the determination of academic policy by UNAM's University Council are not to be usurped by the new labor provision.

2. Another provision (Article 353-L) of the law further insures that pre-existing academic procedures will not be seriously eroded in the wake of unionization. Unlike the process for other Mexican workers, such as trade unionists, whereby the labor union actually hires the new employees, this provision continues the traditional practice of screening and evaluation of applicants for new positions at UNAM by collegial academic units. Moreover, the unions are not permitted to fire an employee on the grounds of disloyalty to the union, as is the case in the private and public sector (Article 353-Q).

3. Finally, faculty unions shall be local associations or institutionally-based and composed of only those members who are employees of that university. Thus, by implication, national federations of faculty unions are prohibited.

Collective Bargaining at UNAM

These recent changes in the Constitution and the Federal Labor Law permitted the faculty at UNAM to choose a bargaining agent and negotiate a contract with the University administration. The major antagonists in the struggle to represent the faculty were the Autonomous Associations of Academic Personnel (AAPAUNAM) versus the Sindicato de Trabajadores de la UNAM (STUNAM). The differences in the bargaining positions of the two organizations are reflected most immediately in their origin and composition. STUNAM is actually an amalgamated union of faculty and staff workers (non-academic employees such as clerical workers and the like).

Its antecedent organizations were: (1) the Sindicato de Trabajadores y Empleados de la UNAM or STEUNAM, which was formed in 1971 to represent non-academic employees; and (2) the Sindicato del Personal Academico de la UNAM or SPAUNAM. When SPAUNAM was defeated, and AAPAUNAM was elected as faculty bargaining representative, it merged with STEUNAM, in 1977, to become STUNAM.

AAPAUNAM began as a loose confederation of faculty associations from various school and colleges within UNAM. It was formally registered as a labor union in 1979. It first emerged as an alternative to the more militant SPAUNAM union. Characteristically a "moderate" union, AAPAUNAM finds its greatest support in the school of law, accounting and administration, engineering, medicine, chemistry, and two of the preparatory schools affiliated with UNAM.

STUNAM, by contrast, is a more radical and politicized union, with direct ties to the Mexican Communist Party. Standing to the left of center, its position on most academic and institutional issues runs directly counter to AAPAUNAM's. It campaigned during the recent run-off elections for a national federation of faculty unions to represent all academic personnel in the various public autonomous universities. STUNAM, in other words, sought to have the Sindicato Unico Nacional de Trabajadores Universitarios or SUNTU as the nationwide bargaining agent for all academic and staff personnel in the public universities. Other parts of STUNAM's platform were dramatically at odds with the positions of AAPAUNAM and the majority of faculty at UNAM. Nevertheless, the agent election between the two unions resulted in a very narrow victory for AAPAUNAM - a consequence, perhaps, of the failure of the majority of faculty at UNAM to vote in the election.

In order to understand the significance of those items that eventually were ratified in the bargaining contract between AAPAUNAM and UNAM, it is necessary to examine the major counter-proposals advanced by STUNAM.⁸ Concerning personnel decisions, STUNAM proposed that the criteria for the selection of new faculty and the promotion of those already teaching at UNAM be subject to the approval of the union. This would have resulted in an almost certain change in the traditional procedure of the "open competition" or the Concurso de Oposicion Abierto in which all applicants for faculty positions at UNAM are evaluated on a competitive basis after the position has been properly advertised nationwide. It is clear that STUNAM wished to introduce the "labor union syndrome" into this selection process, with the union exercising influence in the standards and procedures for hiring new professors.

STUNAM also proposed that a Joint Committee for Selection and Promotion of Faculty be established under terms of the collective agreement. Composed of an equal number of representatives of union and management, the committee would be authorized to determine the need for hiring additional faculty at UNAM. Currently, each academic unit initiates this determination based on concurrent agreement by the University administration. STUNAM's apparent objective was to diminish the power of the administration in hiring temporary, visiting, and part-time faculty. From a cross-national perspective, a trend has developed in academic bargaining whereby the unions seek to control the appointment of part-time personnel, whom they perceive as being capable of being manipulated and controlled by the administrative authorities who hire them.

Additionally, STUNAM pressed for promotion and assignment of faculty

to be based primarily on seniority as opposed to more meritocratic evaluation procedures. In this context, this amalgamated union also proposed that the scheduling of professors, including overtime assignments, require the prior agreement of the union. Lastly, STUNAM wished to make tenure automatic or "instantaneous" for not only all newly hired faculty but also for graduate assistants.

Although none of these proposals became items in the bargaining agreement, the spirit behind a few of them did obviously influence the rival union, AAPAUNAM, in its efforts to appease the more radical elements and thereby insure a majority in the agent election. Examining the collective bargaining contract that was ratified by UNAM and AAPAUNAM, we see that the notion of tenure as an instantaneous right, the creation of joint committees, and the substantive participation of the union in critical decisions about conditions of employment are given particular emphasis.⁹ Chapter 111, clause 8 of the contract, for example, states: "Faculty who have been hired or shall be hired through 'open competition' shall be considered as tenured, based on the terms of the Second Paragraph of Article 353-L of the Federal Labor Law." This means that faculty will no longer have to wait for three years to be tenured because they are instantly considered to be "indeterminate" or permanent employees according to the Labor Law.

Concerning the suspension or termination of faculty, AAPAUNAM succeeded in inserting a sequential procedure whereby the individual faculty member affected and the union are afforded the rights of procedural and, to some extent, substantive due process in the investigation of any alleged violation or misconduct. The affected individual is, furthermore, entitled to appeal any internal decision to the Federal Board of

Conciliation and Arbitration. At the earlier stages of the investigation, a Joint Committee on Conciliation and Resolution is established in the contract, composed of equal numbers of university and union representatives. If this committee fails to reach consensus concerning the suspension, termination, or retention of the individual, the case can be appealed to an outside arbitrator.

In this regard, the contract establishes four other Joint Committees for: Security and Hygiene; Overseeing of the Collective Bargaining Contract; Salary Technicalities; and Social (Fringe) Benefits. The Joint Committee for Overseeing the Contract is authorized to supervise the proper application of the academic procedures pertaining to hiring, promotion, and assignment of faculty.

It is evident from examining this contract, which expires after two years in 1982, that many compromises were carried out not only between labor and management, but between the rival unions. It is apparent as well that some changes in the internal autonomy and self-governance of the institution have taken place as a consequence of the union's new participatory role in academic personnel matters. For the most part, the contract is more significant from the stand point of what is not contained in it. The amendments to the Constitution and the Federal Labor Law have definitely affected the scope of negotiations at this stage in the unionization movement. Autonomy has been substantially preserved and very little collegial authority has been bargained away or delegated to the union. The University Council remains as the supreme academic authority; in fact, its approval is required for the present contract to be binding on the University.

It is possible that this contract represents just the "tip of the iceberg." STUNAM, SUNTU, and other rival organizations will undoubtedly press their claims for greater changes in institutional governance and may yet succeed in unseating AAPAUNAM as the bargaining agent in the next election. If the situation in the United States stands as any barometer to the trend in faculty bargaining, it may be projected that the scope of bargaining will be gradually extended to include an ever enlarging series of academic and administrative issues. At this point, one can conclude, however, that the traditional concept of university autonomy has withstood the challenge of collective bargaining.

NOTES

1. Jaime Castrejón Díez, "Un Proceso de Legislación Universitaria," Cuadernos del Centro de Documentación Legislativa Universitaria, 2, No. 5 (July-September 1980), pp. 24-29. Castrejón Díez profiles the ideological positions of various factions within the UNAM community on the basis of the following classifications: rightist, leftist, modernist, and populist.

2. Ley Orgánica de la Universidad Nacional Autónoma de México 1929 as reprinted in Alfonso de María y Campos, Estudio Histórico-Jurídico de la Universidad Nacional, 1881-1929 (México: Universidad Nacional Autónoma de México, 1975), pp. 215-218.

3. Julio Jiménez Rueda, "La Ley de 1933 y La Autonomía Absoluta," in La Autonomía Universitaria, Jorge Pinto Maxol, ed. (México: Universidad Nacional Autónoma de México, 1974), pp. 173-187.

4. Daniel C. Levy, University and Government in Mexico: Autonomy in Mexico: Autonomy in an Authoritarian System (New York: Praeger, 1980), p. 71. See also Castrejón Díez, "Un Proceso de Legislación Universitaria," p. 14.

5. Decreto de Adición al Artículo Tercero Constitucional, as reprinted in Gaceta UNAM, October 10, 1979, p. 8.

6. Exposición de Motivos: de la Iniciativa de Decreto por el Qice Se Adiciona Con una Fracción VIII el Artículo 3 de los Estados Unidos Mexicanos, Chamber of Deputies of the Congress, Gaceta UNAM, p. 8.

7. The new labor law is contained in Diario Oficial, October 20, 1980, Primera Sección 4-7.

8. "Respuesta de la UNAM al Pliego Petitorio de STUNAM," Gaceta UNAM, September 8, 1980, pp. 16-17.

9. Contrato Colectivo de Trabajo del Personal Académico de la UNAM, February 1, 1981. For a comparative analysis between U.S. and Mexican faculty unionization, see "La Regulación de la Contratación Colectiva en las Universidades Públicas," Cuadernos del Centro de Documentación Legislativa Universitaria, 1, No. 2 (October-December 1979), pp. 7-50.